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JUN 28 2005

OFFICE OF PETITIONS

In re Application of :
Phillip Burwell et al :
Application No. 10/799,357 : DECISION GRANTING PETITION
Filed: March 12, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. CHEN0189 :

This is a decision on the petition under 37.CFR 1.137(b), filed February 7, 2005, to revive the above-identified application.


The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an executed oath/declaration and filing fees; (2) the petition fee of \$750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of May 28, 2004 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$510 extension of time submitted with the petition on February 7, 2005 was subsequent to the maximum extendable period for reply, the fee is unnecessary and will be credited to petitioner's deposit account in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to the Office of Initial Patent Examination for preexamination processing.


Frances Hicks
Petitions Examiner
Office of Petitions